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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,210	11/24/2003	Manfred Schingnitz	4797-46	8520

27799 7590 03/28/2005

COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE
SUITE 1210
NEW YORK, NY 10176

EXAMINER

RIDLEY, BASIA ANNA

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,210

Applicant(s)

SCHINGNITZ ET AL.

Examiner

Basia Ridley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 112403.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Schingnitz et al. (US 2001/0020346).

Regarding claims 1-8, Schingnitz et al. discloses a reactor wall comprising:

- a pressure shell (4);
- a ring shaped gap (5) through which a cooling medium is circulated;
- a cooling wall (14);
- a thermally conductive ramming mass (6);
- a solid layer of slag (9);
- a liquid film of slag (C5/L15-30);
- fixation means (11, 12) selected from the group consisting of pins and anchors;
- cooling medium half tubes (14) attached to the pressure shell to form said cooling wall (Fig. 3-4);
- wherein the cooling medium carrying half tubes (14) have a cross-section selected from the group consisting of semi-circular and elliptical (Fig. 3-4);
- wherein said cooling medium is water (C5/L11-15).

Claim Rejections - 35 USC § 103

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schingnitz et al. (US 2001/0020346) in view of Moritz et al. (USP 3,128,164).

Regarding claim 9, Schingnitz et al. discloses all of the claim limitations as set forth above, but the reference does not disclose any specific materials which can be used as the ramming mass.

Moritz et al. teaches that silicon carbide is a suitable refractory to be used in gasifiers (C4/L61-67).

Since the instant specification is silent to unexpected results, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the silicon carbide, as taught by Moritz et al., as the ramming mass in reactor of Schingnitz et al., as doing so would amount to nothing more than use of a known material for its intended use in a known environment to accomplish entirely expected result.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,827,912. Although the conflicting claims are not identical, they are not patentably distinct from each other because said claims 1-8 of the instant application recite only the limitations which are recited in claims 1-17 of U.S. Patent No. 6,827,912. While claims 1-17 of U.S. Patent No. 6,827,912 do not explicitly recite a layer of liquid slag, said layer is inhering in the reactor recited in said claims.

8. Claim 9 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,827,912 in view of Moritz et al. (USP 3,128,164). Although the conflicting claims are not identical, they are not patentably distinct from each other. While claims 1-17 of U.S. Patent No. 6,827,912 do not explicitly recite any specific materials which can be used as the ramming mass, Moritz et al. teaches that silicon carbide is a suitable refractory to be used in gasifiers (C4/L61-67) Since the instant specification

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is silent to unexpected results, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the silicon carbide, as taught by Moritz et al., as the ramming mass in reactor of Schingnitz et al., as doing so would amount to nothing more than use of a known material for its intended use in a known environment to accomplish entirely expected result.

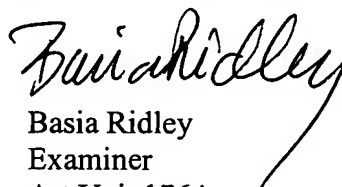
Conclusion

9. In view of the foregoing, none of the claims are allowed.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Basia Ridley, whose telephone number is (571) 272-1453.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola, can be reached on (571) 272-1444.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Technical Center 1700 General Information Telephone No. is (571) 272-1700. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions on access to the Private PAIR system should be directed to the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).


Basia Ridley
Examiner
Art Unit 1764

BR
March 21, 2005